

**ANNUAL REPORT  
to the Commissioner  
Department of Environmental Protection  
July 1, 1996 -- June 30, 1997  
FY 97**

**I. Introduction**

The Board of Underground Storage Tank Installers was established in 1985 by 32 MRSA Chapter 104-A and its authorities expanded and modified by subsequent amendments in 1987, 1989, 1990, 1992, and 1997. According to the statute, the purpose of the Board is as follows:

"In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of underground oil and underground hazardous substance storage tank installers and to assure the availability of underground oil and underground hazardous substance storage tank installations of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering underground oil and underground hazardous substance storage tank installation services."

Thus, the Board has three major responsibilities: (1) certifying underground tank installers and underground gasoline tank removers, (2) managing and accrediting continuing education for certified underground tank installers and removers, and (3) taking disciplinary actions against installers and removers who violate its enabling statutes and rules. By law, the Board is also charged with submitting an annual report to the Commissioner of the Department of Environmental Protection (32 MRSA Section 10004(6)). This report is designed to fulfill that mandate for FY 96/97. It covers the following major subject areas:

- Membership and Staffing;
- New Certifications and Testing;
- Recertification and Continuing Education;
- Processing of Complaints;
- Rulemaking and Program Development;
- Newsletter;
- Data Management; and
- Financial Statement

**II. Membership and Staffing**

Members of the Board are as follows:

- Wayne Gifford, chair (Maine Oil Dealers' Association) - Term expires 12/31/97
- Allan Ball (DEP) - Term expired 12/31/96.
- William Carver (certified installer) - Term expires 12/31/98.
- Robert Judkins (Maine Oil and Solid Fuel Board) - Term expires 12/31/99
- Roger Lewis (Public Member) - Term expires 12/31/98.
- Raymond Poulin (Maine Fire Chief Association) - Term expires 12/31/99.
- Joseph (Bruce) Probert (Me. Chamber of Commerce) - Term expires 12/31/98.

Raymond Poulin is a new member this year. Mr. Poulin was appointed in August, 1996 to succeed Rance Knowles as the Board's representative from the Maine Fire Chief's Association. Mr. Knowles had resigned for health reasons. James Hynson and Theresa Scott continued to provide staffing to the Board. Additional sporadic support was provided by staff from the Department of Environmental Protection, including W. David McCaskill, Diana McLaughlin, Beth DeHaas, Harold Evans, Denise Fournier, Ted Scharf, Robert Stratton, and Ryan Annis. Support from the Office of the Attorney General was provided by Dennis Harnish.

### III. New Certifications and Testing

This section includes discussions on (A) number of installers certified, (B) written exams, (C) on-site exams, (D) upgrades, and (E) apprenticeships.

#### **A. Number of Installers Certified**

The number of certified installers is 159 compared to 162 that were certified at the end of FY 95/96. At present, this includes 154 who hold Class 2 Oil Tank Installer Certificates, and three (3) Class 3 Oil Tank Installers. During the year, two (2) new installers became certified. Five (5) elected not to apply for recertification once their old certificates expired.

There are three (3) underground gasoline tank removers in Maine, two of whom were certified in FY 94/95 and recertified this year. The third was certified this year.

No underground hazardous substance tank installers were certified by the Board. As of the end of this year, the Board had received one (1) application for underground hazardous substance tank installer certificates in the ten (10) years the program has been effective. That application was subsequently withdrawn. In 1996, the Department of Environmental Protection amended its rules on underground hazardous materials tank installation to allow them to be conducted cooperatively between an underground oil tank installer and a registered engineer. Subsequently, the Legislature repealed the underground hazardous substance installer program in the 1997 regular session.

#### **B. Written Exams**

Some effort was spent in FY 96/97 updating written exams, based on a number of revisions to some of the documents we use for study materials, including fire codes, DEP underground tank regulations, American Petroleum Institute recommended practices, and Steel Tank Institute installation instructions. This effort is not complete and we anticipate significant additional work to continue into FY 97/98.

We offered two (2) written examinations during FY 96/97: December 4, 1996 and April 16, 1997. In all cases, the Board offered the initial oil tank installer examination, the final examinations for Classes 2 and 3 underground oil tank installer certification, the underground gasoline tank remover examination, and the underground hazardous substance tank installer examination. Results of those examinations are provided in Table 1. A total of nine (9) applicants took the exams, including six (6) initial oil tank installer

exams, two (2) Class 2 oil tank installer final exams, no Class 3 oil tank installer final exams, and one (1) gasoline tank remover exam. All nine (9) passed.

Exam	4-Dec			16-Apr			Total		
	Pass	Fail	Total	Pass	Fail	Total	Pass	Fail	Total
Initial Oil Tank Installer	0	0	0	6	0	6	6	0	6
Class 2 Final	1	0	1	1	0	1	2	0	2
Class 3 Final	0	0	0	0	0	0	0	0	0
Gasoline Tank Remover	0	0	0	1	0	1	1	0	1
Haz. Sub. Tank Installer	0	0	0	0	0	0	0	0	0
Total	1	0	1	8	0	8	9	0	9

Table 1. Results of written examinations given by the Board of Underground Storage Tank Installers FY 96/97.

### C. On-Site Exams

The 1990 amendments to the Board's enabling legislation and rules eliminated the need to conduct on-site examinations for applicants for oil tank installer certificates. While on-site exams remain required for underground hazardous substance tank installers and underground gasoline tank removers, no applicants for underground hazardous substance tank installer certificates took the written examination in FY 96/97, and thus none were eligible for the on-site examination. One (1) applicant passed underground gasoline tank remover written examinations in FY 96/97, and thus was eligible to take an on-site exam. He subsequently completed his on-site examination successfully and was granted a certificate. The Board's proposed legislative amendments to permit remover applicants to use fuel oil tanks for their remover on-site exams did pass this session and the substance of the amendments will be incorporated into our rules this year.

### D. Upgrades

No Class 3 Underground Tank Installers completed apprenticeship requirements and passed the final examination to be upgraded to Class 2 Underground Tank Installers in FY 96/97.

### E. Apprenticeships

By virtue of passing the initial oil tank installer examination, six (6) applicants qualified as oil tank installer apprentices this year, in addition to the 72 which qualified in previous years. Two (2) of those were eligible to take the final exam last year. Both passed the final exam. Nine (9) apprentices elected to renew their apprentice certificates or have certificates which are current.

### F. Variances

The 1990 amendments to the Board's enabling legislation instituted a variance process for individuals to obtain variances for the apprenticeship portion of the certification process (32 MRSA Sec. 10010.3-A.D; 06-481 CMR c. 3 Sec. 4.D). During FY 96/97, the Board received no formal applications for variances.

#### IV. Recertification and Continuing Education

Thirty (30) installers were granted renewal certificates (including three (3) whose renewals were pending at the end of last year), while five (5) did not reapply. Two (2) individuals applied but had not met the Board's continuing education requirement, and thus disciplinary action is ensued. Two (2) had applied for recertification previously in 1995/96 with insufficient continuing education, but disciplinary action extended into FY 96/97. Three (3) individuals were granted six month probations to make up education, two (2) with payment of a small civil penalty. Two (2) have subsequently met the education requirements and have been recertified, while the other's certificate remains pending. One (1) elected to withdraw his/her application rather than address the issue of obtaining sufficient continuing education.

Continuing education programs accredited by the Board in FY 96/97 generally applicable to all installers are listed in Table 2. These programs received credit by application by program sponsors, and thus all installers who attended them received credit. In addition, three (3) requests were received from individual installers for credit on continuing education programs that had not been accredited through the program sponsors. The Board granted a total of six (6) hours credit from these requests. The Board continues to welcome requests for accreditation of continuing education opportunities from program sponsors as well as from certified installers and removers.

<b>PROGRAM</b>	<b>SPONSOR</b>	<b>Approval Date</b>	<b>HOURS</b>
OSHA 40 Hour Health & Safety (Renew)	Field Services, Inc.	Oct 18, 1996	8
Annual 8 Hour Health & Safety (Renew)	Field Services, Inc.	Oct 18, 1996	2
Line Leak Det., ATG's, and DEP Update	Maine Oil Dealers Assoc.	Nov 22, 1996	4
40-Hour Hazardous Waste (Renewal)	Safety Communications	Jan 17, 1997	8
8-Hour Hazardous Waste Sup. (Renewal)	Safety Communications	Jan 17, 1997	2
8-Hour Hazardous Waste Ref. (Renewal)	Safety Communications	Jan 17, 1997	2
Environmental Sampling Pro. (Renewal)	Safety Communications	Jan 17, 1997	1
Hazardous Waste Operations Course	Tom Lloyd/Industrial Hygiene	April 11, 1997	8
Hazardous Waste Operations Refresher	Tom Lloyd/Industrial Hygiene	April 11, 1997	2
API's Op. Underground; Installation	Cara Guzik/API	June 20, 1997	3
API's Operation Underground; Removal	Cara Guzik/API	June 20, 1997	2
FE Petro Technical Product Training	FE Petro/Andy Pierson	June 20, 1997	2
40-Hour Hazardous Waste Ref. (Renewal)	SafeTech Consultants	June 20, 1997	8
8-Hour Hazardous Waste Ref. (Renewal)	SafeTech Consultants	June 20, 1997	2
<b>Total</b>			54 hrs

Table 2. Continuing education opportunities accredited by the Board of Underground Storage Tank Installers FY 96/97.

#### V. Processing of Complaints

Disciplinary actions involving twenty (20) investigations and thirty-seven (37) alleged violations were processed and resolved in FY 96/97, including four (4) held over from 1995/96. A summary of the Board's actions in these matters is presented in Appendix A.

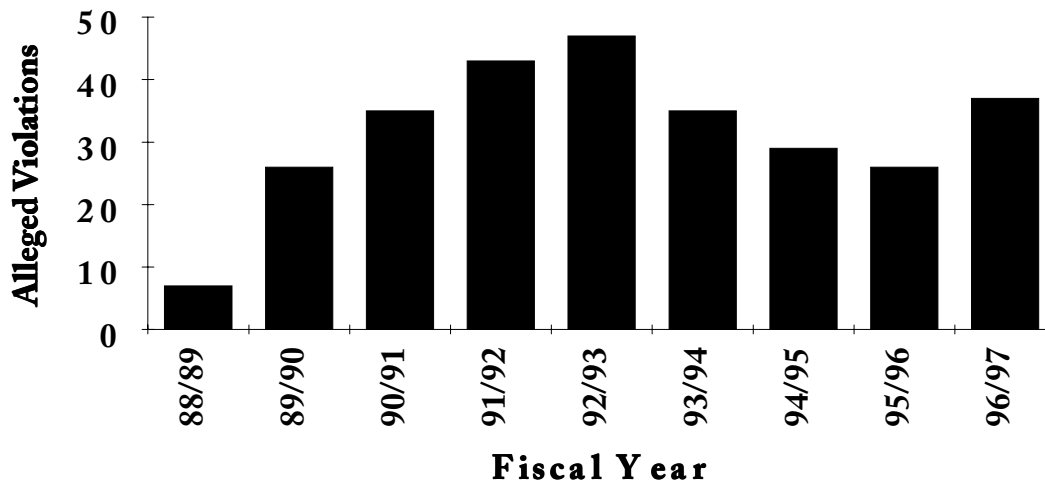
Nineteen (19) complaints involving thirty-seven (37) alleged violations were received in FY 96/97. Investigations which remain unresolved at the end of the year are listed in Table 3.

<b>Principle Violation (Citation)</b>	<b>Year</b>	<b>Case</b>	<b>Date Received</b>	<b>Date Sum.</b>	<b>Action Date</b>	<b>Board Action</b>
06-096CMR691.6.B.3.a	1997	9	12/16/96	2/13/97	5/9/97	Hearing
06-096CMR691.6.B.6.6	1997	9	12/16/96	2/13/97	5/9/97	Hearing
06-096CMR691App.D.7	1997	9	12/16/96	2/13/97	5/9/97	Hearing
06-481CMR1.4.A(2)(b)	1997	9	2/21/97	3/17/97	5/9/97	Hearing
06-096CMR691.4.C	1997	17	6/9/97	7/2/97		
06-096CMR6916.D.2	1997	18	6/12/97	7/3/97		
06-481c.1.4.B.3.b.ii	1997	19	6/20/97		6/20/97	CA

Table 3. Maine Board of Underground Storage Tank Installers ongoing enforcement actions as of June 30, 1997.

Figure 1 shows the number of alleged violations investigated by the Board and its staff since promulgation of the Board's rules in August, 1988. This graph indicates an emerging increasing trend reversed from the past several years of steadily declining alleged violations.

**Figure 1. Alleged Violations Received as Complaints**



## VI. Rulemaking and Program Development

In FY 96/97, we, along with most other agencies in State government, completed rulemaking to adopt our rules into electronic format.

Legislative amendments passed which (1) repeal the certification program for underground hazardous substance tank installers, and (2) allow on-site exams for underground gasoline tank removers to be accomplished on fuel oil tanks. The Board will proceed with rulemaking to implement this legislation in FY 97/98.

## VII. Newsletter

One of the initial benefits of certification of installers was the development of an ability by the State to communicate with installers via a newsletter. Two issues of "The Maine Installer" were published during FY 96/97. Unfortunately, it has been impractical to keep to our original hope of a quarterly newsletter due to conflicting demands on staff. However, the newsletter appears to be well received whenever it can be published.

## VIII. Data Management

We continue to use the databases developed previously in EXCEL for our data management needs. All the Board's staff continued to wait for the development of the tank installer portion of TANKS. We hope the ultimate system will serve our needs and can replace our temporary efforts in EXCEL. As we understand it, development of this system will continue and we are available to test it out once it becomes on-line. We also await being able to being using the DEP's Complaint Tracking System (CTS) to document our complaint investigations.

## IX. Financial Statement

The Board's financial statement for FY 96/97 is provided in Table 4. Two points should be considered when examining these data. First, income is estimated, based upon the number of people who applied for certification, took the various tests, became certified, were recertified, or were issued civil penalties. This was necessary because actual income to the Board is lumped with other underground tanks income in the Department's accounting system.

Second, the income shown for recertification varies widely on a biennial basis. Recertification is required every two (2) years, and thus income for this year reflects the vast majority of tank installers becoming recertified last year. It is therefore expected that this figure will follow two (2) year cycles of being high and low, with this year a low year.

Respectfully Submitted,

Wayne Gifford,  
Chairman

<b>Income (Estimated)</b>	
Applications/Initial Written Examinations	\$ 1,225.00
Apprenticeship Variances	0.00
Apprenticeship Renewals	450.00
Sales of Study Packets	75.00
On-Site Examination Fees	350.00
Final Exams/New Certifications	500.00
Recertifications	3,750.00
Late fees/recertification	0.00
Civil Penalties	4,850.00
<b>Subtotal</b>	<b>11,200.00</b>
<b>Expenses: Account 014 06A 1520 44x</b>	
Personal Services	67,313.22
Fringe	23,253.32
Contractual	215.98
Travel	688.04
Supplies	3,202.72
Other	1,757.98
Sta-Cap	1,148.50
<b>Subtotal</b>	<b>97,579.76</b>
<b>Grand Total<sup>1</sup></b>	<b>(86,379.76)</b>

Table 4. Financial statement for the Board of Underground Tank Installers, July 1, 1996 through June 30, 1997.

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<sup>1</sup>Pursuant to 32 MRSA Sec. 10012.2, all fees and expenses of the Board of Underground Storage Tank Installers are deposited into and paid out of the Ground Water Oil Cleanup Fund. Thus, shortfalls of the Board are made up from other revenue sources from the Fund.

Maine Board of Underground Storage Tank Installers  
Summary of FY 96/97 Enforcement Actions (By Violation)

<b>Alleged Violation</b>	<b>Year</b>	<b>No.</b>	<b>Date Received</b>	<b>Action Date</b>	<b>Action</b>	<b>Result</b>	<b>Fine</b>	<b>Days Susp.</b>	<b>Days Probation</b>	<b>Other Penalty</b>	<b>Date Closed</b>
06-096CMR691.5.a.3.d	1997	4	8/27/96	10/18/96	Dismiss	Dismiss					10/18/96
06-096CMR691.5.a.3.d	1997	5	8/27/96	10/18/96	Dismiss	Dismiss					10/18/96
06-096CMR691.5.A.4.a.ii.AA	1997	4	8/27/96	10/18/96	Dismiss	Dismiss					10/18/96
06-096CMR691.5.A.4.a.ii.AA	1997	5	8/27/96	10/18/96	Dismiss	Dismiss					10/18/96
06-096CMR691.5.A.4.a.ii.BB	1997	4	8/27/96	11/22/96	CA	CA				Repair, warning	12/6/96
06-096CMR691.5.A.4.a.ii.BB	1997	5	8/27/96	11/22/96	Hrg. Op.	Order	\$750				1/17/97
06-096CMR691.5.A.4.a.ii.BB	1997	6	10/18/96	1/17/97	Hearing	Order				Warning	3/21/97
06-096CMR691.5.A.4.a.ii.BB	1997	7	10/18/96	1/27/97	Hearing	Order				Warning	3/24/97
06-096CMR691.5.B.6.b	1997	14	4/2/97	5/8/97	CA	CA			30	Warning, retrofit	6/20/97
06-096CMR691.5.B.7	1997	8	12/11/97	1/17/97	CA	CA				Warning	2/21/97
06-096CMR691.6.B.2	1997	9	12/16/96	2/21/97	Table	Dismiss					3/21/97
06-096CMR691.6.B.2	1997	10	12/16/96	2/21/97	Table	Dismiss					3/21/97
06-096CMR691.6.B.3.a	1997	9	12/16/96	2/21/97	Table	Dismiss					3/21/97
06-096CMR691.6.C.1	1997	11	1/3/97	4/11/97	CA	CA	\$1,000	60			5/6/97
06-096CMR691.6.C.1	1997	12	1/13/97	4/11/97	CA	CA	\$1,000	60			5/6/97



Appendix A

<b>Alleged Violation</b>	<b>Year</b>	<b>No.</b>	<b>Date Received</b>	<b>Action Date</b>	<b>Action</b>	<b>Result</b>	<b>Fine</b>	<b>Days Susp.</b>	<b>Days Probation</b>	<b>Other Penalty</b>	<b>Date Closed</b>
06-096CMR691.AppE.1	1997	14	4/2/97	5/9/97	CA	CA	\$600		30	Retrofit	6/20/97
06-096CMR691AppJ.11	1997	1	7/22/96	8/23/96	Dismissed	Dismissed					8/23/96
06-481CMR1.4.A.2.a	1997	14	4/2/97	5/9/97	Dismiss	Dismiss					5/9/97
06-481CMR1.4.B.1	1996	17	5/31/96	6/7/96	CA	CA			180	\$10 late fee; ed.	7/19/96
06-481CMR1.4.B.1	1996	18	5/23/96	6/7/96	CA	Withdraw Application					7/19/96
06-481CMR1.4.B.1	1997	2	8/7/96	8/23/96	CA	CA	\$250		180	Ed.	10/18/97
06-481CMR1.4.B.1	1997	15	4/11/97	4/11/97	CA	CA	\$250		180	Ed.	5/9/97
06-481CMR1.4.B.3.b.ii	1996	15	4/12/96	6/7/96	CA	CA	\$500		180	Ed.	7/19/96
06-481CMR3.9	1997	3	8/20/96	11/22/96	CA	CA	\$250		180	Ed.; \$10 late fee	11/22/96
38MRSA543	1997	11	1/3/97	4/11/97	CA	CA				See other count	5/6/97
38MRSA543	1997	12	1/13/97	4/11/97	CA	CA				See other count	5/6/97
38MRSA563.1.A	1997	4	10/18/96	11/22/96	CA	CA	\$250			Register	11/27/96
38MRSA563.1.A	1997	11	1/14/97	4/11/97	CA	CA				See other count	5/6/97
38MRSA563.1.A	1997	12	1/14/97	4/11/97	CA	CA				See other count	5/6/97
38MRSA563.1.A	1997	13	1/29/97	4/11/97	CA	CA				Warning	3/21/97

Appendix A

<b>Alleged Violation</b>	<b>Year</b>	<b>No.</b>	<b>Date Received</b>	<b>Action Date</b>	<b>Action</b>	<b>Result</b>	<b>Fine</b>	<b>Days Susp.</b>	<b>Days Probation</b>	<b>Other Penalty</b>	<b>Date Closed</b>
CA 94-10	1996	16	6/7/96	6/7/96	CA	CA			120	Pay prev. fine	7/19/96
Creation basement leak	1997	16	4/18/97	6/20/97	Dismiss	Dismiss					6/20/97
Exposed gauge access	1997	16	4/18/97	6/20/97	Dismiss	Dismiss					6/20/97